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COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

Date: January 6, 2014
File No.: 013-05365-0372-055

FROM: WILLIAM J. MCSWEENEY, CHIEF DETECTIVE DIVISION

TO: LEROY D. BACA SHERIFF

SUBJECT: **LETTER OF OPINION ON DEPUTY INVOLVED SHOOTING**

The attached Letter of Opinion was received from the District Attorney's Office regarding the case involving Deputies Caren Mandoyan #[redacted] and Sean Kusiak #[redacted].

STATION: South Los Angeles

DATE / TIME OF SHOOTING: June 21, 2013, 2126 Hours

SUSPECT: BEASLEY, Mark
MB/24 (Injured – In-Custody)

LOCATION: [redacted] Street
Los Angeles (Unincorporated Area)

DISTRICT ATTORNEY'S CONCLUSION:

The following is a verbatim statement from the District Attorney's Letter of Opinion.

"The evidence examined shows that Beasley was a passenger in a vehicle that fled from deputies as they attempted to conduct a traffic stop. When the fleeing vehicle crashed, Beasley exited the vehicle carrying a firearm. Despite being ordered to stop, Beasley pointed the firearm in the direction of Kusiak, leaving Kusiak and Mandoyan with only a split-second to respond. Kusiak and Mandoyan acted lawfully by using force to end the deadly threat Beasley posed. After this initial shooting, Beasley continued to flee. When he reached toward his waistband, Kusiak was placed in reasonable fear that Beasley was again arming himself with a firearm. Kusiak's further use of deadly force was objectively reasonable under those circumstances."

"We conclude that LASD Deputies Caren Mandoyan and Sean Kusiak acted lawfully in self-defense and in defense of others. We are closing our file and will take no further action in this matter."

WJM:DJH:no



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
SHARON J. MATSUMOTO • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

December 17, 2013

Captain Duane Harris
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #13-0456
L.A.S.D. File #013-05365-0372-055

Dear Captain Harris:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 21, 2013, non-fatal shooting of Mark Beasley, by Los Angeles County Sheriff's (LASD) Deputies Caren Mandoyan and Sean Kusiak. We have determined that Deputies Mandoyan and Kusiak acted lawfully in self-defense and defense of another.

The District Attorney Command Center was notified of this shooting on June 21, 2013, at approximately 10:30 p.m. The District Attorney Response Team (DART), consisting of Assistant Head Deputy District Attorney Shannon Presby, District Attorney Supervising Investigator Lawrence Dimmick and District Attorney Senior Investigator Armando Alvarado responded to the scene. They were given a briefing of the circumstances surrounding the incident and a walk-through of the shooting scene.

The following analysis is based upon investigative reports, analyzed evidence reports and witness statements taken during the investigation by the LASD and submitted to this office by Detective Jeff Cochran, LASD Homicide Bureau. No compelled statements were considered for purposes of this analysis.

FACTUAL ANALYSIS

On June 21, 2013, Deputies Mandoyan and Kusiak were on patrol in a marked LASD vehicle. Mandoyan was driving and Kusiak was the front passenger. Both deputies were dressed in full LASD uniforms. At approximately 9:26 p.m., the deputies were driving north on Vermont Avenue when they saw a silver Buick driving erratically in front of them. At 92nd Street, the Buick made a u-turn without coming to a complete stop at the stop sign.

The deputies also made a u-turn at 92nd Street and activated their emergency lights. The Buick failed to yield and a vehicle pursuit ensued. During the course of the pursuit, the Buick

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accelerated to approximately 60 mph on residential streets. The Buick also slowed a number of times and the doors opened, leading the deputies to believe the occupants of the Buick were preparing to abandon the vehicle and flee on foot.

The Buick eventually turned west onto 102nd Street, drove over the north curb line and collided with a chain link fence where it came rest. The LASD vehicle stopped approximately 20 feet behind the Buick. The driver and the rear driver's side passenger exited the Buick and fled on foot. The front passenger, Mark Beasley, exited the Buick holding a handgun. He crossed behind the Buick and began to flee west on 102nd Street. Deputy Kusiak exited the passenger's side door and Mandoyan exited the driver's side door. The deputies commanded Beasley to stop but Beasley ignored their commands and continued to flee.

As Beasley fled, he turned his upper body to the right toward Kusiak and raised his right hand pointing the handgun toward Kusiak who was approximately 15 feet behind Beasley. Fearing he was about to be shot, Kusiak fired several times at Beasley. Simultaneously, Mandoyan, who was slightly south of Kusick, fired at Beasley. Beasley continued to run west down the north sidewalk of 102nd Street reaching a location of cover between a parked SUV and a large palm tree.

Kusiak moved west, away from the patrol car to a location near the abandoned Buick. He saw Beasley fall to the ground between the sidewalk and the curb. Kusiak illuminated Beasley with the tactical flashlight affixed to his gun. Beasley was lying on his stomach with his hands underneath him. Kusiak ordered Beasley to put his hands where Kusiak could see them. Beasley initially complied, but then reached his right hand towards his waistband. Believing Beasley was again arming himself, Kusiak fired one additional round. Beasely then extended his hands away from his body and was detained without further incident.

Beasley was transported by ambulance to Centinella Hospital and treated for a single gunshot wound to his left calf.

A Kaltek P-11 semiautomatic 9 mm firearm was recovered from the roadway of 102nd Street along the path that Beasley fled. The firearm was located approximately 14 feet east of the location where Beasley was ultimately detained.

Beasley was charged in criminal case #YA087943 with two counts of assault with a firearm upon a police officer, Penal Code section 245(d)(1). That case is set for pretrial on January 4, 2014, in Department 126 of the Los Angeles Superior Court.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense, or defense of another, if it reasonably appears that the person claiming the right of self-defense or defense of another, actually and reasonably believed that he, or the person protected, was in imminent danger of great bodily injury or death. *See*, Penal Code § 197; People v. Randle (2005) 35 Cal.4th 987,

994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082.

In protecting himself, or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. CALCRIM No. 505.

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." People v. Collins (1961) 89 Cal.App.2d 575, 589.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." Graham v. Conner (1989) 490 U.S. 386, 396-397.

CONCLUSION

The evidence examined shows that Beasley was a passenger in a vehicle that fled from deputies as they attempted to conduct a traffic stop. When the fleeing vehicle crashed, Beasley exited the vehicle carrying a firearm. Despite being ordered to stop, Beasley pointed the firearm in the direction of Kusiak, leaving Kusiak and Mandoyan with only a split-second to respond. Kusiak and Mandoyan acted lawfully by using force to end the deadly threat Beasley posed. After this initial shooting, Beasley continued to flee. When he reached toward his waistband, Kusiak was placed in reasonable fear that Beasley was again arming himself with a firearm. Kusiak's further use of deadly force was objectively reasonable under those circumstances.

We conclude that LASD Deputies Caren Mandoyan and Sean Kusiak acted lawfully in self-defense and in defense of another. We are closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By

SHANNON PRESBY
Assistant Head Deputy District Attorney
(213) 974-3888

c: Caren Mandoyan, #[redacted]
Sean Kusiak, #[redacted]